

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GERALDINE HARRIS	:	CIVIL ACTION
	:	
v.	:	
	:	
FREE LIBRARY OF PHILADELPHIA	:	
and CITY OF PHILADELPHIA	:	NO. 08-cv-01668-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

July 31, 2008

Plaintiff, an employee of the Free Library of Philadelphia, alleges that she was discriminated against on the basis of her race (African-American) because she has been repeatedly denied promotion to a full-time position, notwithstanding her qualifications which were superior to the (White) individuals who received the promotions. She claims entitlement to relief under Title VII, under 42 U.S.C. § 1981, and under the Pennsylvania Human Relations Act. Now before the Court is a defense motion to dismiss the § 1981 claim, and to dismiss the "Free Library of Philadelphia" as a party. The motion will be granted.

In Jett v. Dallas Indep. Sch. Dist., 491 U.S. 701, 733 (1989), the Court held that 42 U.S.C. § 1983 is "the exclusive federal remedy for violation of the rights guaranteed in § 1981 by state governmental units." Although a few courts have expressed the view that the Jett decision has been overruled by subsequent congressional action, the courts of this Circuit have

consistently held that violations of § 1981 by state actors can be remedied only through § 1983, which requires a showing of a settled municipal policy or practice. In the context of this case, the issue is of little consequence, since plaintiff can obtain adequate relief under Title VII.

Although plaintiff has attempted to show otherwise, it is very clear that the "Free Library of Philadelphia" is simply a department of the City of Philadelphia, and not an independent entity which can be sued.

An Order follows.

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ORDER

AND NOW, this 31st day of July 2008, IT IS ORDERED:

1. Plaintiff's claims under 42 U.S.C. § 1981 are
DISMISSED.

2. The "Free Library of Philadelphia" is DISMISSED as
a party; the sole defendant is the City of Philadelphia.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.